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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Reinhart K. Pildner, David McKenzie

For: SIZE DISCRIMINATING DUAL ELEMENT PER
DETECTOR

Serial No.: 08/789,386

Filed: January 28, 1997

Art Unit: 2736

Our Reference: WH-9565US

133 Richmond Street West
Toronto, Ontario M5H 2L7

February 4, 1998

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Attention: Examiner Jeffrey A. Hofsass

Dear Sir:

PETITION TO WITHDRAW
HOLDING OF ABANDONMENT

We have received Notice of Abandonment dated January 21, 1998 in the above-identified patent application.

According to the Notice of Abandonment, this application was abandoned for failure to respond to the Office Letter mailed on June 2, 1997. The Notice of Abandonment indicates that no response was filed.

According to our records, we did not receive the Office Letter of June 2, 1997 and therefore, we did not respond to this. According to our records, the last correspondence received from the United States Patent Office before receiving Notice of Abandonment is Notification of Change due to the Patent and Trade-mark Office move dated November 15, 1997 and received December 10, 1997 (delay due to mail strike).



Our office maintains a diary system for recording all due dates for responding to Office Actions and Notice of Allowances from both the Canadian and the United States Patent and Trade-Mark Offices.

We typically receive mail from the United States, anywhere from three to ten days after the mailing date and any Office Actions received from the United States Patent Office are immediately entered into the diary system, prior to being forwarded to the particular agent for consideration. I have enclosed an Affidavit from Neil McFater outlining the diary process.

We have produced a log for this particular file with the various activities that have been recorded against this file. This patent application is recorded in our records as client and matter number 000750-000127. Six entries are shown in our log attached to the Affidavit as Exhibit "A". There is an entry of January 27, 1997 (1) which is recorded in our log as the filing of the application. There is also an entry in our log of March 25, 1997 (2) indicating recording in our system of the filing data. The next entry (3) in the log is June 23, 1997 which is the date of recordal of the Notice from the U.S. Office that the assignment document had been recorded. The entry (4) of December 12, 1997 was in response to receiving a Notice from the U.S. Office of a change in office of the examiner in charge of this application and the entry of the Examiner. The entry (5) of January 26, 1998 is the Notice of Abandonment dated January 21, 1998 from the U.S. Office and inserting a due date of February 21, 1998. The entry (6) is an internal entry made to establish convention filings.

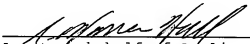
As you can see from the log, no further entries have been made and there is no entry for receipt of an Official Letter dated

June 2, 1997. Exhibit "B" of the Affidavit is a summary listing for the file, and note that June 2, 1997 is not shown as a base date for an Action.

From time to time we have experienced difficulty in receiving information mailed to us by the U.S. Patent Office. Although we cannot be certain, we believe that a number of pieces of mail were not delivered to us during the May/June period of 1997.

With respect to this particular file, we do not believe that we ever received the Office Letter of June 2, 1997 and we therefore request that the holding of abandonment be withdrawn and the Official Action of June 2, 1997 be reissued.

Respectfully submitted,



Agent on behalf of Applicant
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WH/sdw
Resp.1